

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Helen M. Simerly )  
Dist. 9, Map 35C, Group A, Control Map 35C, ) Carter County  
Parcel 16.00, S.I. 000 )  
Residential Property )  
Tax Year 2006 )

## INITIAL DECISION AND ORDER

## Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$12,800	\$139,300	\$152,100	\$38,025

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 10, 2007 in Elizabethton, Tennessee. In attendance at the hearing were Helen M. Simerly, the appellant, Gerald Holly, Carter County Property Assessor, and staff member Ronnie Taylor.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 2,310 square foot residence constructed in 1962 located at 128 Green Valley Lane in Elizabethton, Tennessee. Ms. Simerly purchase subject property along with an adjoining 100 x 181 lot separately appraised at \$12,800 for a total of \$170,000 on August 9, 2005.

The taxpayer contended that subject property should be valued at \$115,500. In support of this position, Ms. Simerly testified that she purchased subject property after doing little more than walking through it in order to be closer to her family. Ms. Simerly maintained that subject dwelling has various physical deficiencies she was not aware of prior to her purchase. Ms. Simerly stated that in addition to “some plumbing and electrical problems,” she discovered some shingles and a shutter had been blown off, a closet door was missing, and a garage door spring was broken.

The taxpayer also noted on her appeal form that subject property had been appraised at \$98,200 prior to the 2006 countywide reappraisal. According to Ms. Simerly, several similarly appraised homes on the street did not increase in value like the subject property following the countywide reappraisal.

The assessor essentially introduced a copy of the property record card to show how the current appraisal of subject property was made. Mr. Holly noted that the Carter County Board of Equalization reduced the appraisal of subject property from \$161,700 to \$152,100.



The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$152,100 based upon the presumption of correctness attaching to the decision of the Carter County Board of Equalization.

Since the taxpayer is appealing from the determination of the Carter County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2006 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. Respectfully, the taxpayer did not introduce any comparable sales into evidence.

The administrative judge finds that the taxpayer introduced insufficient evidence to quantify the loss in value caused by the physical problems summarized above. For example, no photos or repair estimates were introduced into evidence. Absent such evidence, the administrative judge must presume that the Carter County Board of Equalization adequately considered such factors when it reduced the appraisal of subject property by \$9,600.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See



*Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to “equalization” of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.<sup>1</sup> The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

The assessor’s recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$12,800	\$139,300	\$152,100	\$38,025

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which

<sup>1</sup> See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

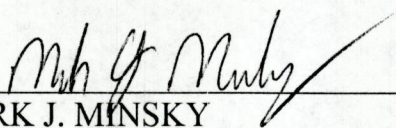


relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 20th day of April, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Helen M. Simerly  
Gerald Holly, Assessor of Property